

Legislative Analysis



PROPERTY TAX ASSESSMENTS

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House Bill 6049 (H-1) as passed by the House
Sponsor: Rep. James A. Lower
Committee: Tax Policy
Complete to 12-9-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 660 of 2018)

BRIEF SUMMARY:

House Bill 6049 would amend the General Property Tax Act by adding and amending sections that define the state's property tax assessment process.

The bill would do all of the following:

- Require an assessing district to employ or contract with an assessor of record. An assessing district that amends its corrective action plan after a notice of noncompliance must employ or contract with an assessor who is certified by the State Tax Commission (STC) as a Michigan master assessing officer (MMAO, level 4) or Michigan advanced assessing officer (MAAO, level 3).
- Require an assessing district to have and follow a published policy whereby its assessor's office would be reasonably accessible to taxpayers.
- Require an assessing district to provide taxpayers online access to assessment services information if a city or township building within the assessing district is in an area with broadband internet access.
- Require contact information for the assessor's office to be included in notices to taxpayers concerning assessment changes and exemption determinations.
- Require an assessing district to meet certain standards including using mass appraisal software, ensuring staff is sufficiently trained to respond to taxpayer inquiries, complying with the Act for any property tax administration fee collected, and ensuring assessors maintain certification levels.
- Require boards of review members to receive training and updates required and approved by the STC.
- Require an assessing district to comply with any additional provision lawfully promulgated by the STC.
- Require the STC to develop and implement an audit program, with specific criteria, to ensure that counties and assessing units are in compliance with the bill.
- Require the STC to develop and implement a post-audit process that would ensure all assessing districts achieve and maintain substantial compliance with the requirements of the bill.
- Require every county to have a designated assessor on file with the STC who can serve as a designated assessor for assessing districts required to contract with a designated assessor under the process established by the STC to maintain substantial compliance with the requirements of the bill.

- Require the STC to adopt and publish guidelines to implement the provisions of the bill within two years.
- Authorize the governing bodies of two or more contiguous cities or townships to appoint a single board of review.

The bill has an enacting section that states legislative intent to appropriate sufficient money to provide funding for the training and start-up costs related to board of review members training, increasing the number of assessors qualified to serve as assessors of record, facilitating initial designated assessor designations, responding to assessor requests for technical assistance, enhancing staff and programming within the STC to improve technical support for assessors of record, and transitioning some assessment services to designated assessors.

DETAILED SUMMARY:

The following terms are defined in the bill:

Advanced assessing officer would mean an individual certified by the STC pursuant to Section 10d of the Act as a MAAO or, if the STC changes its certification designations, an individual certified by the STC to perform functions equivalent in scope, as determined by the STC, to those that previously could have been performed by a MAAO.

Assessing district would mean a city, township, or joint assessing authority.

Corrective action plan would mean a plan developed by an assessing district that specifically indicates how the assessing district would achieve substantial compliance with the requirements of the bill and when substantial compliance would be achieved.

Designated assessor would mean an individual designated and approved, as provided in the bill, to serve a county as the assessor of record for the assessing districts in that county that are required to contract with a designated assessor pursuant to the process specified in the bill.

Substantial compliance would mean that any identified deficiencies do not pose a significant risk that the assessing district is unable to perform the assessment function in conformity with the state constitution and state law. Further, the definition states it is the opposite of noncompliance.

Beginning on and after December 31, 2021, the STC would have to audit the *assessing districts* to ensure that they do all of the following:

- Employ or contract with an assessor of record to oversee and administer an annual assessment of all property liable to taxation. If the assessing district amended the corrective action plan (described in more detail below), its assessor of record would have to be an MMAO or an MAAO.

- Use a computer-assisted mass appraisal system approved by the STC that has sufficient software capabilities to meet the requirements of the Act and to store and back up data.
- Subject to STC guidelines, have and follow a published policy under which its assessor's office is reasonably accessible to taxpayers. The policy must include the following first four items and should include the last item:
 - A designation by name, telephone number, and email address, of at least one official or employee in the assessor's office to whom taxpayer inquiries may be submitted.
 - An estimated response time for taxpayer inquiries, not to exceed seven business days.
 - Information about how a taxpayer may arrange a meeting with an official or employee of the assessor's office for purposes of discussing an inquiry in person.
 - Information about how requests for inspection or production of records should be made by a taxpayer and how those requests would be handled by the assessor's office.
 - Information about any process that the assessor's office may have to informally hear and resolve disputes brought by taxpayers before the March meeting of the board of review.
- If the city or township building within the assessing district is in an ***area with broadband internet access***, provide taxpayers with online access to information regarding its assessment services, including, but not limited to, parcel information, land value studies and documentation, and economic condition factors. (An ***area with broadband internet access*** is defined as an area determined by the Connect Michigan Broadband Service Industry Survey to be served by fixed terrestrial service with advertised speeds of at least 25 megabits per second downstream and 3 megabits per second upstream in the most recent survey available.)
- Ensure that its support staff is sufficiently trained to respond to taxpayer inquiries, require that its assessors maintain their certification levels, and require that its board of review members receive board of review training and updates required and approved by the STC.
- Comply with Section 44(4) of the Act with respect to any property tax administration fee collected under Section 44. (Section 44(4) of the Act authorizes the local property tax collecting unit to waive all or part of the property tax administration fee or the late penalty charge, or both. Any property tax administration fee collected by the township treasurer is required to be used to offset the costs incurred by a collecting unit in assessing property values, in collecting property tax levies, and in the review and appeal processes. The cost of a surety bond may be paid by the township from the property tax administration fee.)
- Have all of the following:
 - Properly developed and documented land values.
 - An assessment database for which less than 1% of parcels are in override.
 - Properly developed and documented economic condition factors.

- An annual personal property canvass and sufficient personal property records according to development policy and statutory requirements.
- A board of review that operates in accordance with the Act.
- An adequate process for determining whether to grant or deny exemptions according to statutory requirements.
- An adequate process for meeting the requirements outlined in the STC's Supervising Preparation of the Assessment Roll publication as those requirements existed on October 1, 2018.
- Comply with any other requirement that the STC promulgates under the Administrative Procedures Act that expressly states that it is intended as an additional requirement.

STC Audit Program

The STC would have to develop and implement an audit program to determine whether an assessing district is in **substantial compliance** with the requirements of the bill. If, after December 31, 2021, the STC determines that an assessing district is not in substantial compliance with the requirements of the bill, the STC may initiate the process developed to ensure that the assessing district achieves and maintains substantial compliance.

STC Process to Ensure Assessing Districts Maintain Substantial Compliance

The STC would have to develop and implement a process to ensure that all assessing districts in the state achieve and maintain substantial compliance with the requirements of the bill. At a minimum, the process must include the following actions and procedures:

- If the STC determines that an assessing district is not in substantial compliance and elects to initiate the process developed, the STC would have to provide the assessing district with a notice of noncompliance setting forth the reasons and request that the assessing district develop a **corrective action plan** approved by its governing body to address the deficiencies. Unless the assessing district files a written petition with the STC challenging the determination, an assessing district would have to file a corrective action plan with the STC within 60 days after receipt of the notice of noncompliance.
- After May 1, but before September 1 of the calendar year immediately following the notice of noncompliance, the STC would have to conduct an initial follow-up review with the assessing district and, within 90 days, provide the district with an evaluation of its progress in implementing its corrective action plan and a notice of substantial compliance or noncompliance with the requirements of the bill. For a corrective action plan that extends beyond one year, the STC would have to conduct the review after May 1, but before September 1, in the calendar year that is the second calendar year following the year of the notice.
- Unless the assessing district files a written petition with the STC challenging the determination, an assessing district that received a notice of noncompliance as part of an initial follow-up review would have to elect to either contract with the **designated assessor** for the county to serve as the district's assessor of record or amend its corrective action plan with the approval of the STC to provide that it will employ or contract with a new assessor of record who would have to be an MMAO or an MAAO.

- If the assessing district amended its corrective action plan, after May 1, but before September 1 of the following calendar year, the STC would have to conduct a second follow-up review and, within 90 days, provide it with an evaluation of its progress in implementing its corrective action plan and a notice of substantial compliance or noncompliance.
- If, after either a first or second follow-up review, the STC provided an assessing district with a notice of substantial compliance, no further follow-up reviews would be required.
- If the STC provided a notice of noncompliance after the second follow-up review or notified the assessing district that it had fallen out of substantial compliance less than five calendar years after a notice of substantial compliance, the STC could require it to contract with the designated assessor of the county. If the STC notified an assessing district that it had fallen out of substantial compliance more than four calendar years after the notice of substantial compliance was issued, that notice would be treated as an initial determination of noncompliance.
- Within 30 days of receiving a notice of noncompliance, an assessing district could file a written petition with the STC challenging the determination. The STC would have to arbitrate the dispute based on the documented facts supporting the notice of noncompliance and the information contained in the written petition and may request additional information as needed. An assessing district would not have to take the actions required following a notice of noncompliance until STC notified the assessing district of the results of the arbitration.
- An assessing district under contract with a designated assessor could petition the STC to end its contract beginning three years after commencement of the contract and could subsequently terminate the contract, subject to STC approval, no sooner than five years after commencement of the contract. The STC could terminate the contract if it determined that the assessing district would achieve and maintain substantial compliance using a different assessor of record.
- The STC could immediately require an assessing district to contract with the designated assessor to serve as the district's assessor of record if, 90 days following a second notice of noncompliance or the issuance of a notice of arbitration results, whichever was later, the assessing district neither contracted with the designated assessor nor employed or contracted with a new assessor of record, or if both of the following apply:
 - The assessing district failed to file an acceptable corrective action plan with the STC within 180 days following an initial notice of noncompliance or failed to make a good-faith effort to implement a corrective action plan approved by the STC within 240 days following an initial notice of noncompliance.
 - The failure to file or make a good-faith effort is likely to result in assumption of the assessing district's assessment roll by the STC.
- A designated assessor would be authorized to charge an assessing district that is required to contract with it for the reasonable costs incurred by it in serving as the assessor of record. Costs would include, but not be limited to, costs of overseeing and administering the annual assessment, preparing and defending the assessment roll, and operating the assessing office. The STC would have to develop guidelines

to provide for the ability of an assessing district to protest a charge to the STC and the ability of the STC to resolve disputes between the designated assessor and the assessing district regarding costs.

- The designated assessor would be considered a local assessing unit for purposes of the provisions in Section 44 of the Act concerning the division and use of any collected property tax administration fees.

County Designated Assessor Requirement

Beginning on and after December 31, 2020, each county would have to have a designated assessor on file with the STC, subject to all of the following:

- A county would have to provide the STC with an interlocal agreement that designated an individual to serve as the county's designated assessor and petition the STC to approve the individual as the designated assessor. The interlocal agreement would have to be executed by the board of commissioners of the county, a majority of the assessing districts in the county, and the individual put forth as the proposed designated assessor. An assessing district would be considered to be in the county where all, or the largest share, of that assessing district's state equalized value was located.
- The STC would have to approve the petition if the STC determined that the individual named in the petition would be capable of ensuring that contracting assessing districts achieve and maintain substantial compliance with the requirements of the bill. Conversely, if the STC determined that the individual would not be capable, it would have to reject the petition and request the submission of additional interlocal agreements until a suitable designated assessor is presented.
- The approved designated assessor designation could not be revoked, and no new designation could be made, earlier than five years following the date of the approved designation.
- The STC could designate and approve, on an interim basis and pursuant to a formal agreement, an individual to serve as a county's designated assessor and, if applicable, revoke the approved designation of the current designated assessor under the following circumstances and subject to the following time limit:
 - If the designated assessor dies or becomes incapacitated.
 - If the designated assessor were designated and approved based on employment status and that status materially changes.
 - If the STC determines at any time that the designated assessor is not capable of ensuring that contracting assessing districts achieve and maintain substantial compliance with the requirements of the bill.
 - If, as of December 31, 2020, the STC has not been provided an interlocal agreement that provides a suitable individual.
 - An approved interim designated assessor would be effective only until a new assessor has been designated and approved by the STC.

The bill would require the STC to adopt and publish guidelines to implement the provisions of the bill not later than two years after the bill's effective date. The guidelines would have to include at least minimum standards and model policies to be followed for substantial compliance with the requirements of the bill and would have to identify those deficiencies

that could lead to a finding of noncompliance and those deficiencies that are technical. The STC would be authorized to update the guidelines as needed.

The bill would authorize the governing bodies of two or more contiguous cities or township to, by agreement, appoint a single board of review to serve as the board of review for each of those cities or townships. In determining the size, composition, and manner of appointment of a board of review, the requirements of the bill would serve as a guide.

A village would be authorized to request the STC to combine the assessment of property within the village to one local assessing district in a form and manner approved by the STC.

MCL 211.10d, et al.

FISCAL IMPACT:

As written, the bill would have little or no impact on state or local revenues, although complying with the required provisions could increase costs for local assessing units. The enacting language specifies the intent of the legislature to appropriate sufficient funds to address start-up and training costs, which would increase state expenditures and mitigate the impact upon the locals. However, because this does not mandate an appropriation, there is no guarantee that locals would receive the appropriate amount of funding.

The potential costs to local units or the state cannot be determined in advance since there is no way to know the extent of the modifications local units would need to make to comply with the requirements of the bill.

POSITIONS:

Representatives of the following organizations testified in support of the bill (11-28-18):

- Michigan Department of Treasury
- Michigan Municipal League
- Michigan Townships Association

A representative of the Michigan Association of Counties testified with no position on the bill. (11-28-18)

The Michigan Chamber of Commerce supports the bill. (11-28-18)

The Michigan Assessors Association is neutral on the bill. (11-28-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.